IN THE

Supreme Court of the United States

OCTOBER TERM, 1941

No. 892

HAZELTINE CORPORATION,
Petitioner,

vs.

THE CROSLEY CORPORATION,
Respondent.

PETITION FOR REHEARING

WILLIAM H. DAVIS
R. MORTON ADAMS
Counsel for Petitioner

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Now comes Hazeltine Corporation, the above-named Petitioner, and respectfully petitions for a rehearing in the above-entitled cause for the following reason:

Since the denial of the Petition for Writ of Certiorari on March 2, 1942, in the above cause, there has been filed (or is about to be filed) in this Court a Petition for Writ of Certiorari to the Circuit Court of Appeals for the Third Circuit in the case of *National Electric Products Corporation,* Petitioner, vs. *Triangle Conduit & Cable Company, Inc.,* Respondent, wherein the question presented is fundamentally the same although the facts are different.

Both petitions present for determination by this Court the soundness of the rule adopted by the Circuit Court of Appeals for the Third Circuit in this case and reasserted in the *National Electric Products Corporation* case, namely, that an executory action should be restrained in favor of a declaratory action in all cases where priority of declaratory action appears, and that the District Court has no discretion in the matter.

For the foregoing reason it is respectfully urged that the Petition for Writ of Certiorari be reconsidered, that the Order denying a Writ of Certiorari be vacated, and that a Writ of Certiorari be issued forthwith to review, simultaneously with the decree in the *National Electric Products Corporation* case, the decree of the United States Circuit Court of Appeals for the Third Circuit heretofore entered in this case.

Respectfully submitted,

WILLIAM H. DAVIS
R. MORTON ADAMS
Counsel for Petitioner

Certificate of Counsel

I, R. MORTON ADAMS, counsel for the above-named Petitioner, do hereby certify that the foregoing Petition for a rehearing in this cause is presented in good faith and is not filed for delay.

R. MORTON ADAMS
Counsel for Petitioner.